

A.C. 42276	:	SUPREME COURT
ALEXANDER PHILLIPS ppa	:	APPELLATE COURT
RALPH E. PHILLIPS	:	
V.	:	
TOWN OF HEBRON, ET AL	:	APRIL 25, 2019

MOTION FOR RECONSIDERATION

Pursuant to the provisions of Conn. Practice Book Sec. 71-5 and 66-2 (2019), the Appellant, Alexander Phillips, ppa, herewith requests that the Court Reconsider its April 24, 2019 Order Dismissing the matter due to the Appellant's failure to File a Court Reporter's Acknowledgment of Transcript Order Form as more fully set forth below:

1. A Brief History of the Case: This case arises out of two discrete occurrences that took place at the Gilead Elementary School in Hebron, CT during the 2015 School Year.

The minor plaintiff, a non-verbal child with Down Syndrome, has alleged through his father that he was "warehoused," by being placed in a classroom Coatroom to the exclusion of his non-disabled classmates.

He has further alleged that the School nurse, stripped him and photographed him, disseminating the pictures to third parties without consent of his father.

A Civil action was thereupon brought against Hebron Board of Education, Town of Hebron, Joshua Martin, Barbara Wilson, Margaret Ellsworth, Sheryl Poulin, Timothy Van Tasal, Patricia Buell, Ellen Kirkpatrick, & Eric Brody alleging discrimination, negligence per se, and civil assault.

On 1/17/2018, the defendant moved to Dismiss certain Counts of the Complaint, because the plaintiff had failed to exhaust his administrative remedies with the State of Connecticut Department of Education.

On 10/5/2018, the Court (Farley, J) granted the defendants' Motion to Dismiss.

The subject Appeal ensued.

On 4/12/2019, the Appellate Court Ordered that the Appellant file a Form SDES-38 Transcript Order Acknowledgment form by 4/23/2019.

On 4/24/2019, the Court ordered that the matter be dismissed as the form had not been filed.

2. The Specific Facts Upon Which the Moving Party Relies:

The Court Reporters Acknowledgement Transcript Form was not filed in a timely manner in the mistaken belief that the actual Transcript had to be completed and received in order to submit the Transcript Acknowledgment Form. (See appended Affidavit of Paralegal, Anisa Segui, Exhibit A).

In reality the subject Form had already been completed and executed by the Court Reporter and was in the possession of Ms. Segui but was not filed due to the above-specific misapprehension.

A copy of the Form is attached hereto as Exhibit B.

The Appellant is therefore prepared to fully comply by filing this with the Court.

3. The Legal Grounds Upon Which the Moving Party Rules:

Conn. Practice Book Section 63-4 (a)(3) which specifically states:

A certificate stating that no transcript is deemed necessary, or a copy of the transcript order acknowledgment for (JD-ES-38) with section I thereof completed, filed with the official reporter pursuant to Section 63-8. If any other party deems any other parts of the transcript papers, file a copy of the order form (JD-ES-38), which that party has placed in compliance with Section 63-8.

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The Appellant's failure to comply with the Court's Order to submit the Transcript Order Acknowledgment Form was not intentional. As is reflected in the appended documentation, it occurred due to a misapprehension of what the Form required in order be submitted. As is also evident, the Appellant of prepared to fully comply with the Order by virtue of Exhibit B attached hereto.

For the above reason(s), the Appellant respectfully requests that his Motion to Reconsider be granted.

THE PLAINTIFF,
ALEXANDER PHILLIPS, ppa
RALPH E. PHILLIPS

By: 

Attorney Patricia Cofrancesco
89 Kimberly Avenue
East Haven, Connecticut 06512
Telephone No.: (203) 467-6003
Juris No.: 300918

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PRACTICE BOOK SECTION 62-7(b)(1) CERTIFICATION

This is to certify that in accordance with the provisions of Conn. Practice Book Section 62-7(b)(1)(2019) the foregoing was emailed, via first class mail, postage prepaid, this 25th day of April, 2019 to the following counsel of record:

Alexandra L. Voccio, Esq.
Howd & Ludorff, LLC
65 Wethersfield Avenue
Hartford, CT 06114
(860) 249-1361
(860) 249-7665 (Fax)
avoccio@hl-law.com

By:



Attorney Patricia Cofrancesco

A.C. 42276

SUPREME COURT

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PRACTICE BOOK SECTION 62-7(b)(2) CERTIFICATION

This is to certify that in accordance with the provisions of Conn. Practice Book Section 62-7(b)(2)(2019) the foregoing document does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law:

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By:



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PRACTICE BOOK SECTION 62-7(b)(3) CERTIFICATION

This is to certify that in accordance with the provisions of Conn. Practice Book Section 62-7(b)(3)(2019) the foregoing document complies with all applicable Rules of Appellate Procedure:

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Attorney Patricia Cofrancesco

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EXHIBIT A

LAW OFFICES OF PATRICIA A. COFRANCESCO

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NOTICE OF APPEAL
TRANSCRIPT ORDERJD-ES-38 Rev. 2-17
Practice Book 63-8, 63-8A

CONNECTICUT JUDICIAL BRANCH

www.jud.ct.gov

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at www.jud.ct.gov/ADA.

INSTRUCTIONS TO PERSON ORDERING A TRANSCRIPT FOR AN APPEAL:

1. Fill out section 1 only and give this form to the Official Court Reporter.
2. Give the Official Court Reporter the name and address of all counsel and self-represented parties of record.
3. After the Official Court Reporter fills out section 3 and returns the form to you, fill out section 4.

Section 1.

Name of case

Alexander M. Phillips v. Town of Hebron, et al

Trial court docket number

TTD-CV16-6011314-S

Hearing dates of transcript being ordered

May 29, 2018

Trial court location

69 Brooklyn Street, Rockville, CT 06066

Judicial district of

Tolland

Name(s) of Judge(s)

Farley, J.

Case type ("X" one)

☐ Criminal☐ Juvenile☐ Family☒ Civil

Case tried to ("X" one)

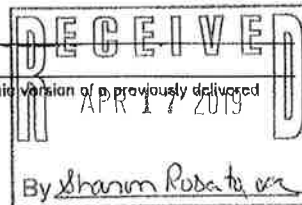
☐ Jury☒ Court

Appeal to ("X" one)

☐ Supreme Court☒ Appellate CourtAppeal
("X" one)☐ 1. From judgment in juvenile matters:☐ (a) concerning Termination of Parental Rights☐ (b) other than Termination of Parental Rights☐ 2. From a criminal judgment where defendant is:☐ (a) incarcerated☐ (b) not incarcerated☐ 3. From court closure order☐ 4. Involving the public interest☐ 5. From judgment involving custody of minor children☒ 6. From all other judgmentsAn electronic version of a previously delivered transcript is being ordered: ☐ Yes ☐ No

Describe in detail, including specific dates, the parts of the proceedings for which a transcript is being ordered. If you are ordering an electronic version of a previously delivered transcript, indicate that the paper transcript already was delivered. Attach a sheet of plain paper if needed.

Oral argument on defendants' Motion to Dismiss at short calendar on May 29, 2018



From	Name of person ordering transcript	E-mail address
	Patricia A. Cofrancesco, Esq.	pattycofrancesco@sbglobal.net
	Mailing address	Telephone number
	89 Kimberly Avenue, East Haven, CT 06512	203-467-8003
Relationship (Attorney for Plaintiff, Defense, etc.)	Signature of person ordering transcript	Date signed
Attorney for the Plaintiff	<i>[Signature]</i>	4/17/18

Do not write below this line when ordering the transcript.

Section 2. Official Court Reporter's Appeal Transcript Order Acknowledgment (Completed by Official Court Reporter after satisfactory financial arrangements have been made pursuant to Section 63-8 of the Connecticut Practice Book.)

Name(s) of reporter(s)/monitor(s)	Name(s) of transcribing reporter(s)/monitor(s) (if different)	Estimated number of pages	Only electronic version of previously delivered transcript?		Number of pages previously delivered	Estimated delivery date
			Yes	No		
			<input type="checkbox"/>	<input type="checkbox"/>		
Becky Livingstone		60	<input type="checkbox"/>	<input checked="" type="checkbox"/>		5-1-2019
			<input type="checkbox"/>	<input type="checkbox"/>		

<input type="checkbox"/> JD-ES-038C attached for additional names of reporter(s)/monitor(s)	Total estimated pages	Total delivered pages	Final Estimated delivery date
	60		5-1-2019
Name of Official Court Reporter	Signature of Official Court Reporter	Date signed	
Sharon Rosato	Sharon Rosato	4-17-2019	

Order Acknowledgment

Section 3. Official Court Reporter's Certificate Of Completion (Completed by Official Court Reporter upon delivery of the entire transcript ordered above.)

Actual number of pages in entire Appeal Transcript:	Date of final delivery (Practice Book Section 63-8(c))
This certificate is filed as required by Practice Book Section 63-8	Signature of Official Court Reporter
	Date signed

Section 4. Certification Of Service By Ordering Party (Ordering party to send completed certificate to Chief Clerk, 231 Capitol Avenue, Hartford, CT 06106)

I certify that a copy of the above Certificate of Completion was served on all counsel and self-represented parties of record.

Signature of ordering party	Date signed

EXHIBIT B

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AFFIDAVIT OF ANISA SEGUI

The undersigned being duly sworn, hereby deposes and states as follows.

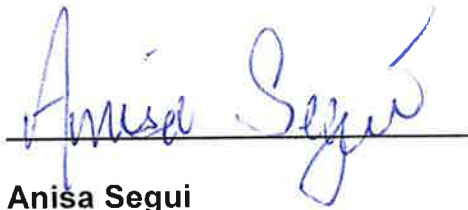
1. That I am over eighteen (18) years of age and that I understand, and I believe in the obligation of an Oath;
2. That I make the following representations in support of a Motion for Reconsideration filed on behalf of the Appellant, Alexander Phillips, ppa et al;
3. That I am employed by the Law Offices of Patricia A. Cofrancesco as a Paralegal;
4. That I was given the responsibility of securing a completed Form JD-ES-38 for Transcript or Acknowledgment Form from the Court Reporter who transcribed the Transcript of the Oral Argument that took place at the Short Calendar of May 28, 2018 for the defendants' Motion to Dismiss;

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5. That I mistakenly believed that the Transcript had to be received in its entirety before the aforementioned Form could be filed as part of the Appellant's presentation;
6. That I did in-fact receive the Form in a timely manner, and it is attached to the Appellant's presentation but because of my misapprehension of what the Form required, I did not file it, believing that I needed the entirety of the Transcript in order to do so;
7. That I make the above representations of my own free will and volition;
8. Dated at East Haven CT, this 25th day of April, 2019.


Anisa Segui

OATH

Personally, appeared Anisa Segui, who swore to the truth of the representations contained herein.


Notary Public

